IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 06.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No1555 of 2001

The Regional Provident Fund
Commissioner,
Tamil Nadu and Pondicherry,
No.22, Royapettah High Road,
Madras-600 014. ... Appellant(Respondent)

Vs.

Sri Janardhana Mills Limited,
Uppilipalayam Post,
Coimbatore-15, rep. by its
Manager .. Respondent(Petitioner)

Writ appeals filed under Clause 15 of the Letters Patent against the order dated 12.07.1994 made in W.P.No.11274 of 1984. Petition presented under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the Respondent in Proceedings No. TN/SDC/84 and quash its order dated 25.8.1984.

For Appellant : Mrs.V.J.Latha
For respondent : Mr.John for
M/s T.S.Gopalayan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 12.07.1994 made in W.P.No.11274 of 1984, in and by which, the learned single Judge, accepting the grievance of the writ petitioner, allowed the writ petition to the extent indicated therein. Questioning the said order, the Regional Provident Fund Commissioner, Tamil Nadu and Pondicherry has filed the present appeal.

2. Heard the learned counsel for the appellant as well as the respondent.

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3. The matter relates to damages under Section 14-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act") in respect of Sri Janardhana Mills at Coimbatore. It is the claim of the writ petitioner/respondent herein that due to various reasons including the negotiation with the Government of Tamil Nadu the delay occurred in the remittance of contributions. They also furnished various details regarding the period of strike, lock outs and closure etc. They also furnished the orders passed by the BIFR as well as AIFR. Taking note of all the grievances expressed by the writ petitioner and in view of the language used in Section 14-B of the Act, the learned single Judge has arrived at a factual conclusion that the delay was unintentional, which does not attract penal action. As rightly pointed out by the learned single Judge, due to various reasons as mentioned above, the Management was not in a position to remit the amount in time and committed default. In the decision reported in 1997 (10) Supreme Court Cases 384 (REGIONAL PROVIDENT FUND COMMISSIONER, WEST BENGAL AND ANOTHER VS. DELTA JUTE AND INDUSTRIES LTD., AND ANOTHER), the Honourable Supreme Court, while considering Section 14-B of the Act, has admitted that after a scheme was prepared by them(Supreme Court), the respondent company, which was a sick industry, has revived and has paid both the current and arrear dues of provident fund contribution in instalments without any default. In such circumstances, taking note of the said fact, Their Lordships have concluded that it will not be desirable to direct for payment of interest and damages as claimed so that the process of revival is again put to jeopardy. By saying so concluded that considering the provisions of Section 14-B of the Act and also the facts of the case, refused to interfere with the impugned order.

4. Considering the factual details furnished, which are available even in the proceedings of the appellant-The Regional Provident Fund Commissioner, Tamil Nadu and Pondicherry, and the details mentioned in the affidavit filed before the learned single Judge and also considering the language used in Section 14-B of the Act, in the absence of any other adequate material, we are not inclined to interfere with the factual conclusion arrived at by the learned single Judge as well as the relief granted in favour of the writ petitioner. Consequently, the writ appeal fails and the same is dismissed. No costs.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

The Regional Provident Fund
Commissioner,
Tamil Nadu and Pondicherry,
No.22, Royapettah High Road,
Madras-600 014.

1 CC TO M/S V.J. LATHA, ADVOCATE SR NO 52961

1 CC TO M/S T.S. GOPALAN & CO, ADVOCATES SR NO 52649

W.A.No.1555 of 2001

KLT(CO)

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